IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 31218 of 2003(N)

PETITIONER:

A.T.DASAN, S/O.KESAVAN, AGED 56 YEARS,
SENIOR T.O.A.TELEPHONE EXCHANGE, KOILANDY,
RESIDING AT AMRITHA, NEAR RAILWAY STATION,
KOILANDY-673 305.

BY ADV. SRI.M.R.RAJENDRAN NAIR,
SRI.R.SREERAJ,
SRI.SUNILNATH,
SRI.HARIRAJ,
SRI.P.A.KUMARAN,
SMT.VINEETHA B.,
SMT.ANSU COTTAGIRI VARGHESE.

RESPONDENTS:

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1. **THE GENERAL MANAGER, TELECOME BHARATH SANCHAR NIGAM LIMITED, CALICUT-1.**

2. **BHARATH SANCHAR NIGAM LIMITED, REP.BY THE CHIEF GENERAL MANAGER, TELECOME, KERALA CIRCLE, TRIVANDRUM.**

3. **UNION OF INDIA, REP.BY THE SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF COMMUNICATIONS, DEPARTMENT OF TELECOM, NEW DELHI.**

4. **K.M.ABDULLA, TOA(P)GRADE IV, O/O. SUB DIVISIONAL ENGINEER, OCB. TELEPHONE EXCHANGE, MANJERI PO.**

W.P.(C). NO.31218/2003:

5. M.BALAKRISHNAN NAIR, TOA(P) GRADE IV,
O/O. SUB DIVISIONAL ENGINEER, TELEPHONE EXCHANGE,
MOKKAM P.O., CALICUT.

BY ADV. SRI.FRANCIS JOSEPH KURISINKAL, ADDL.CGS,
SRI.P.M.M.NAJEEB KHAN, SC, BSNL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.31218/2003:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE REPRESENTATION ON 28/01/1997 BEFORE THE R.1.

EXT.P.2: COPY OF THE RELEVANT PAGES OF THE GRADATION LIST OF TELEPHONE OPERATORS IN CALICUT SSA AS ON 01/07/1998 BY ORDER NO. SGP-1005/98-99/3 DTD. 01/02/1999 ISSUED BY THE R.1.

EXT.P.3: COPY OF THE REPRESENTATION DTD. 28/01/2002 BEFORE THE LAISON OFFICER, SC/ST GRIEVANCE CELL, OFFICE OF THE R.1.

EXT.P.4: COPY OF THE LETTER NO. SRT 7309/2 DTD. 05/02/2002 ISSUED BY THE LAISON OFFICER SC/ST, AGM (A) OFFICE OF THE R.1.

EXT.P.5: COPY OF THE ORDER NO. SGP-8010/2002-03/46 DTD. 13/09/2002 ISSUED BY THE R.1.

EXT.P.6: COPY OF THE REPRESENTATION DTD. 15/11/2002 BEORE THE R.1.

EXT.P.7: COPY OF THE LETTER NO. SGP 8010/2001-03/58 DTD. 02/01/2003 ISSUED BY THE R.1.

RESPONDENT'S EXHIBITS:

EXT. R.1.A: COPY OF THE GRADATION LIST OF GRADE 3 OFFICIALS NO. SGQ. 0111/A/15 DTD. 02/12/96 ISSUED BY THE OFFICE OF THE R.1.

EXT. R.1.B: COPY OF THE LETTER DTD. 22/08/97 CIRCULATED THROUGH THE R.2. WITH ANNEXURES.

EXT.R.1.C: COPY OF THE CIRCULAR NO. 22-6/94-TE DTD. 11/01/99 ISSUED BY THE OFFICE OF R.3.

EXT.R1.D: COPY OF THE LETTER NO. 22-6/94-TE DTD. 09/07/99 ISSUED BY THE OFFICE OF THE R.3.

EXT.R1.E: COPY OF THE LETTER NO. 22-6/94-TE DTD. 08/09/99 ISSUED BY THE OFFICE OF THE R.3.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) No.31218 of 2003

Dated 16th March, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayer :-

> "Issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents to consider the petitioner for promotion to TOA (P) Grade IV with effect from the date of promotion of his juniors on general line or with effect from the date due to him as a S.C. candidate, giving benefit of reservation."

Learned counsel for the petitioner submits that, in view of the Bench decision of this Court rendered during the pendency of the writ petition, dated 10.8.2006, in O.P.No.31211/02, this writ petition can be disposed of directing the second respondent to consider the case of the petitioner herein also, in the light of the said judgment. Learned Standing Counsel submits that the matter is now pending before the Supreme Court. However, the view taken in the Bench decision is that for the only reason that an S.L.P. is pending before the Supreme Court, the writ petition need not be kept pending.

2. Learned Standing Counsel further submits that the Department had issued a circular dated 17.4.2003 in the matter

of implementation of reservation. I am afraid, the said contention also cannot be appreciated, in view of the various decisions of the Central Administrative Tribunals, which have been followed by the various High Courts. The writ petition is disposed of making it clear that the petitioner herein also shall be extended a similar treatment as meted out to the first respondent in O.P.No.31211/02.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No. of 2002

J U D G M E N T

Dated 16th March, 2007.